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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,981	12/30/1999	MASATO HUMA	991504	3229

23850 7590 11/03/2003

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EXAMINER

TRAN, THANG V

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/446,981

Applicant(s)

HUMA, MASATO

Examiner

Thang V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 and 29-32 is/are allowed.
- 6) ☒ Claim(s) 37 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

In response to a communication dated 10/22/03, amendments dated 06/02/03 and 08/25/03 have been entered and considered with the following results:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 37 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogura et al. (US 6,269,065)

Ogura et al., according to Figs. 1A-6, shows a recording medium (see Fig. 1A and 1B for example) having a plurality of recording layers (layers L1 and L2), wherein a first data (program) are recorded on one of the recording layers (layer L1) at first recording density (normal data) and data relevant to the first data (same program) are recorded on the other recording layer (layer L2) at a second recording density higher than the first recording density (see column 4, line 18 through column 5, line 50 for information related to density recording and sampling time for first data and relevant data), and the relevant data are higher in quality than the first data and can be played back solely (see Fig. 4) and the relevant data are also sampled at a cycle shorter than that at which the first data have been sampled (see the first data (data recorded on a first generation CD) has a sampling frequency (f_s) of 44.1 kHz and the relevant data (data recorded on a second generation CD) has a sampling frequency of 2.8224 MHz or 64 f_s which is wider than the frequency of the first data, and since the sampling period or cycle is equal to

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1/(sampling frequency), the sampling period or cycle of the relevant data is equal to $1/(2.8224\text{NHZ})$ or $1/(64\text{fs})$ which is shorter than the sampling period or cycle of the first data which is equal to $1/(44.1\text{KHZ})$, as recited in claim 37 and 38.

Allowable Subject Matter

3. Claims 11-15 and 29-32 are allowed.

Response to Arguments

4. In response to Applicant's arguments with respect to claimed invention, Applicant is noted that as disclosed in Ogura et al, the first data (data recorded on a first generation CD) has a sampling frequency (fs) of 44.1 kHz and the relevant data (data recorded on a second generation CD) has a sampling frequency of 2.8224 MHZ or 64fs which is wider than the frequency of the first data. Since the sampling period or cycle is equal to $1/(\text{sampling frequency})$, the sampling period or cycle of the relevant data is equal to $1/(2.8224\text{NHZ})$ or $1/(64\text{fs})$ which is shorter than the sampling period or cycle of the first data which is equal to $1/(44.1\text{KHZ})$. Clearly, Ogura et al do show that the relevant data are sampled at a cycle or period shorter than that of the first data as recited in claims 37-38.

5. This is a RCE of applicant's earlier Application No. 09/446,981. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

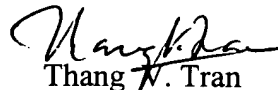
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (703) 308-1551. The examiner can normally be reached on Tuesday to Friday, from 7:30AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Thang V. Tran
Primary Examiner
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